



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
AIR AND RADIATION

June 17, 2021

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Alejandra Nunez
 Deputy Assistant Administrator for Mobile Sources

TO: Joseph Goffman
 Acting Assistant Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13989 and the Biden Ethics Pledge that I signed, as well as my own attorney bar obligations.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Because of the current level of financial ownership, I am disqualified from participating personally and substantially in any particular matter that will have a direct and predictable effect upon any of the following entities as a specific party:

RECUSAL LIST – SPECIFIC PARTY MATTERS		
Amazon	Netflix	SunRun Inc.
Kering	Peloton Interactive, Inc.	Uber Technologies, Inc.
Microsoft	QUALCOMM	Zoom Video Communications, Inc.

I am also disqualified from participating personally and substantially in any particular matter of general applicability that is focused on the interests of any individual discrete and identifiable class of “persons” (identified as “sectors” below). This prohibition extends to each class (or sector) individually. If a matter affects all sectors or if a particular matter affects a combination of sectors, including the ones listed below, then I understand that I do not have a financial conflict of interest.

RECUSAL LIST – SECTORS	
Communication Services (Entertainment, and Interactive Media and Services)	Consumer Services
Electrical Equipment (limited to Solar Energy Systems)	Food and Staples Retailing
Internet and Direct Marketing Retail	Leisure Products
Semiconductors	Software and Services
Technology Hardware and Equipment	Textiles, Apparel and Luxury Goods

OBLIGATIONS UNDER EXECUTIVE ORDER 13989

Pursuant to Section 1, Paragraph 2 of Executive Order 13989, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employers, **Sierra Club, Coalition for Green Capital, or the Clean Energy Federal Credit Union**, is a party or represents a party. Under the terms of the Ethics Pledge, this recusal lasts for two years from the date that I joined federal service, or until January 31, 2023.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties. If, for example, there is “a meeting with five or more stakeholders regarding a given policy or piece of legislation, [then I] could attend such a meeting even if one of the stakeholders is a former employer or former client.”¹ Should a question arise as to whether a specific forum qualifies as “open to all interested parties,” then I will consult with OGC/Ethics.

ATTORNEY BAR OBLIGATIONS

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect

¹ See Office of Government Ethics (OGE) Advisory DO-09-011 (3/26/09), which applies to Exec. Order 13989 pursuant to OGE Legal Advisories LA-21-03 (1/22/21) and LA-21-05 (2/23/21).

the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics. Thus, I will not participate in the following matters:

CASE NAME:	CITATION:
Union of Concerned Scientists, <i>et al.</i> v. National Highway Traffic Safety Administration	No. 19-1230 (D.C. Cir.) (lead case)
Sierra Club, <i>et al.</i> v. Environmental Protection Agency, <i>et al.</i>	No. 19-1243 (D.C. Cir.) (consolidated)
Competitive Enterprise Institute, <i>et al.</i> v. National Highway Traffic Safety Administration, <i>et al.</i>	No. 20-1145 (D.C. Cir.) (lead case)
Natural Resources Defense Council, <i>et al.</i> v. Andrew R. Wheeler, <i>et al.</i>	No. 20-1168 (D.C. Cir.) (consolidated)
Truck Trailer Manufacturers Association v. Environmental Protection Agency, <i>et al.</i>	No. 16-1430 (D.C. Cir.)
American Lung Association, <i>et al.</i> v. Environmental Protection Agency, <i>et al.</i>	No. 19-1140 (D.C. Cir.) (lead case)
Appalachian Mountain Club, <i>et al.</i> v. Environmental Protection Agency	No. 19-1166 (D.C. Cir.) (consolidated)
Biogenic CO2 Coalition v. Environmental Protection Agency, <i>et al.</i>	No. 19-1185 (D.C. Cir.) (consolidated)
State of North Dakota v. Environmental Protection Agency	No. 15-1381 (D.C. Cir.)

DIRECTIVE AND CONCLUSION

To avoid participating in matters from which I am recused, please direct them to the attention of **Ann Ferrio, Chief of Staff**, without my knowledge or involvement. Should these recusals have a significant impact on my ability to perform my duties, I will seek additional guidance from OGC/Ethics and will consult with them to revise my recusal statement if my circumstances change, including changes in my financial interests, my personal or business relationships, or my EPA duties, and provide a copy to you and the Ethics Office.

cc: Elizabeth Shaw, Deputy Assistant Administrator
Tomás Carbonell, Deputy Assistant Administrator for Stationary Sources
Ann (Campbell) Ferrio, Chief of Staff
Eunjung Kim, Special Assistant
Justina Fugh, Director, Ethics Office